

UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**



Ex parte BRIAN KEITH WELLS, LANCE ALAN WOLF
GREGORY R. FURNISH, VASILY P. ABRAMOV
WILLIAM C. MERS and RUSSELL F. DURGIN

Application No. 10/674,512

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on July 25, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

The Examiner's Answer mailed January 30, 2006 is defective because in paragraph 8 it is stated, "no evidence is relied upon by the examiner." However prior art was applied in the rejections on appeal. The Manual of Patent Examining Procedure (MPEP), in §1207.02 requires that the prior art be listed in the Examiner's Answer. Appropriate correction is required.

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Accordingly, it is

ORDERED that the application is returned to the Examiner to list the prior art being relied on under the heading Evidence Relied Upon in paragraph 8 in the Examiner's Answer, and for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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